

CALENDAR ITEM

C69

A 72

06/29/15

S 34

PRC 6966.9

A. Franzoia

**TERMINATION OF A GENERAL PERMIT – RECREATIONAL USE
AND ISSUANCE OF A GENERAL LEASE – OTHER**

APPLICANT:

Portofino Cove Condominium Association, a California corporation

AREA, LAND TYPE, AND LOCATION:

1.0631 acres, more or less, of sovereign land in the Bolsa Chica Channel of Huntington Harbour, adjacent to 16291 Countess Drive, Huntington Beach, Orange County.

AUTHORIZED USE:

Continued use, operation, maintenance, repair, replacement, and monitoring of a landscaped, paved, and lighted public parking lot with 101 approved parking spaces, and two fire hydrants.

LEASE TERM:

10 years beginning June 29, 2015.

CONSIDERATION:

No monetary consideration as the parking lot is a public benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

OTHER PERTINENT INFORMATION:

1. Applicant owns the common areas of the upland adjoining the lease premises.
2. The State of California acquired fee ownership of the Huntington Harbour Main and Midway Channels in 1961 as a result of a land exchange entered into between the Commission and the Huntington Harbour Corporation, recorded as Sovereign Lands Location No. 34 dated December 22, 1960, and recorded on January 31, 1961, in Book 5611, Page 470, Official Records, Orange County, California. Projects, including

CALENDAR ITEM NO. **C69** (CONT'D)

new development or maintenance of existing facilities, extending into these Channels beyond the bulkhead line require a lease from the Commission pursuant to Public Resources Code section 6501.1. The Applicant's upland property is located along the Main and Bolsa Chica Channels of Huntington Harbour. A portion of the Bolsa Chica Channel and a portion of the filled uplands adjacent to the Bolsa Chica Channel are what remain of the original sovereign lands after the land exchange.

3. On September 26, 1985, the Commission authorized an agreement, known as the Parking Area Agreement (Agreement), between the CSLC and Mola Development Corporation (Mola) et al. for the issuance of a General Permit – Recreational Use for the operation, maintenance, repair, and replacement of public parking facilities; and acceptance of a Grant Deed by the CSLC for lands identified in the attached exhibits as Lease Parcel 2, from Mola. The General Permit was issued in accordance with the Agreement, to Portofino Cove Condominium Association (Association), beginning August 1, 1986; however, 'Parcel C' was not deeded and accepted by the State until 2015 (Recorded in Official Records, Orange County, April 21, 2015, document No. 2015000202537).
4. The original agreement between the CSLC and Mola et al., allowed the grantee to reserve an easement for the use of 30 parking spaces in conjunction with the development of the Portofino Cove Condominiums. In addition, the agreement waived rental payments in return for the obligations assumed by the Association for the free public parking.
5. The Applicant is requesting a new General Lease - Other to define and clearly identify the location of the 30 parking spaces for the exclusive use of their owners and guests; and to define other parameters for safe maintenance and operation of the parking lot.
6. **Permit Termination:** The staff recommends that the Commission find that the subject termination of a permit does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, sections 15060, subdivision (c)(3), and 15378.

7. **Issuance of New Lease:** The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1,

CALENDAR ITEM NO. **C69** (CONT'D)

Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Permit Termination: Find that the subject termination of a permit is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

Issuance of New Lease: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

1. Authorize termination of General Permit – Recreation Use issued to Portofino Cove Condominium Association beginning August 1, 1986. Termination is effective June 28, 2015.

CALENDAR ITEM NO. **C69** (CONT'D)

2. Authorize issuance of a General Lease – Other to Portofino Cove Condominium Association beginning June 29, 2015, for a term of 10 years, for the continued use, operation, maintenance, repair, replacement, and monitoring of public parking facilities in the Bolsa Chica Channel of Huntington Harbour as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part here of; consideration: the public use and benefit, with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 6966.9

LAND DESCRIPTION

Two parcels of sovereign land lying adjacent to the Bolsa Chica Channel, situate in the City of Huntington Beach, County of Orange, State of California, and more particularly described as follows:

PARCEL 1

That portion of the 2.99 acre parcel of land vested in the State of California, being in fractional Section 19, Township 5 South, Range 11 West, San Bernardino Meridian in Rancho La Bolsa Chica per map recorded in Book 51, Page 13 of Miscellaneous Maps of said county, being described as follows:

BEGINNING at the most westerly corner of Lot "D" of Tract No. 11716 as shown on the map recorded in Book 537 at Pages 17-19 Miscellaneous Maps of said county; thence along the boundary of said tract South $80^{\circ} 26' 18''$ East 81.93 feet; thence South $38^{\circ} 52' 33''$ West 203.07 feet; thence South $66^{\circ} 30' 47''$ West 140.77 feet; thence South $77^{\circ} 57' 42''$ West 125.04 feet to a point in the southwesterly prolongation of the southeasterly line of the land described in deed to the Orange County Flood Control District by deed recorded in Book 4364 at Page 451 of Official Records of said county; thence North $49^{\circ} 34' 33''$ East, along said southwesterly prolongation, 391.53 feet to the POINT OF BEGINNING.

PARCEL 2

All those lands as described in that Grant Deed recorded April 21, 2015 in Document No. 2015000202537 Official Records of said county.

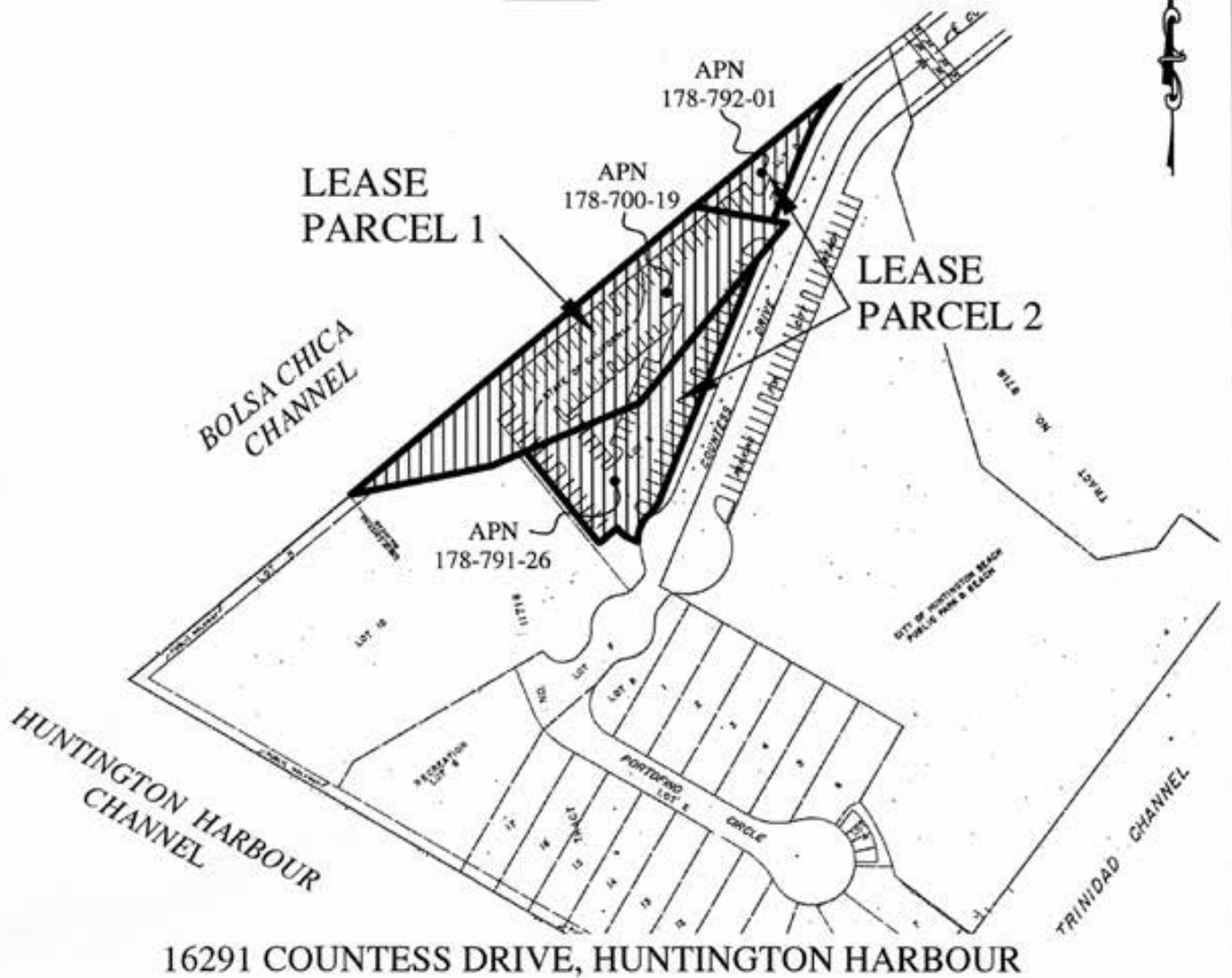
END OF DESCRIPTION

Prepared 06/08/15 by the California State Lands Commission Boundary Unit
(Parcel 1 based on that original description prepared 12/20/85 entitled PARCEL 3 as found in Exhibit C of State Lands Commission Lease PRC 6966).



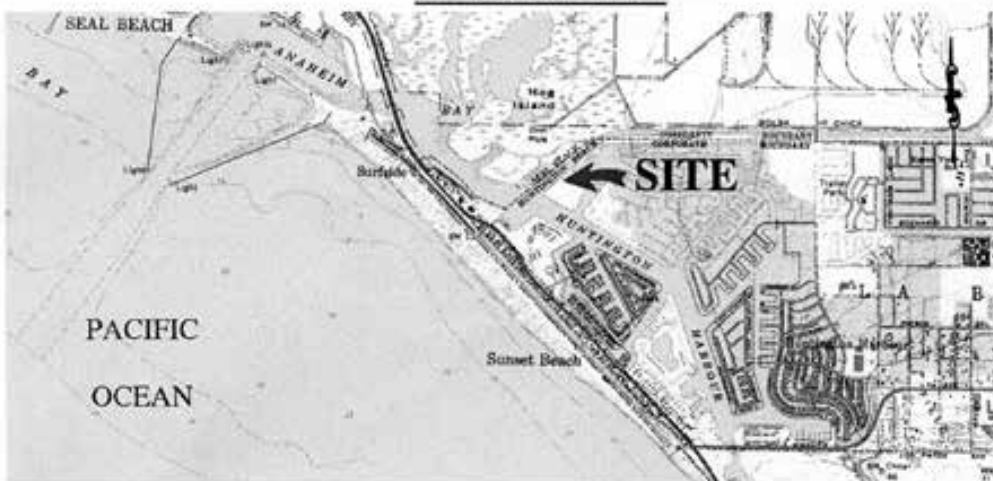
NO SCALE

SITE



NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6966.9
PORTOFINO COVE CONDOMINIUM
ASSOCIATION
APNs 178-700-19, 178-791-26
& 178-792-01
GENERAL LEASE -
RECREATIONAL &
NON-COMMERCIAL USE
ORANGE COUNTY



TS 06/08/15

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.